

create new exhibits in support of their arguments, including a new exhibit comparing their inventory of the joint exhibit list with the disputed LULAC exhibits.”³

Although the LULAC Plaintiffs conferred with Defendants⁴ about the extension request “on the night of June 17, 2025,” the LULAC Plaintiffs “did not receive a response before filing” their motion.⁵ Thus, in accordance with the Court’s Local Rules, we will assume Defendants oppose the motion⁶ and assess whether it would be legally appropriate to grant the extension over Defendants’ presumed objection.

I. DISCUSSION

Because the LULAC Plaintiffs didn’t move to extend the 5:00 PM deadline until *after* it had already expired, they must satisfy a more rigorous standard than would apply if they had sought the extension *before* 5:00 PM.⁷ Specifically, the LULAC Plaintiffs must show that their failure to meet the original deadline resulted from “excusable neglect.”⁸

³ *Id.* at 1–2.

⁴ The Certificate of Conference states that LULAC Plaintiffs’ counsel “conferred with counsel for *Movants* . . . before filing th[e] motion.” *Id.* at 4 (emphasis added). However, the LULAC Plaintiffs *are* the “Movants” here. The Court thus presumes that the LULAC Plaintiffs meant to say that they conferred with “counsel for the *Non-Movants*.”

⁵ *Id.*

⁶ W.D. TEX. L.R. CV-7(G) (“A motion is unopposed only if there has been an actual conference with opposing counsel and there is no opposition to any of the relief requested in the motion.”).

⁷ *Compare* FED. R. CIV. P. 6(b)(1)(A), *with* FED. R. CIV. P. 6(b)(1)(B).

See also, e.g., Saucedo v. City of San Benito, 78 F.4th 174, 191 (5th Cir. 2023).

⁸ *See* FED. R. CIV. P. 6(b)(1)(B).

To determine whether the LULAC Plaintiffs have satisfied that burden, the Court must consider:

- (1) “the danger of prejudice to the opposing party,”
- (2) “the length of the delay and its potential impact on judicial proceedings,”
- (3) “the reason for the delay, including whether it was within the reasonable control of the movant,” and
- (4) “whether the movant acted in good faith.”⁹

Three of those factors clearly favor the requested extension. The Court perceives no way in which the delay would prejudice Defendants now that the bench trial is over. The brief 6½-hour delay had no impact on these proceedings. And the Court has no reason to question the LULAC Plaintiffs’ good faith here.

The only close question is whether the “reason for the delay” factor favors the LULAC Plaintiffs. While the Court has no doubt that preparing the briefing was a time-intensive task, it’s not self-evident that the amount of time the Court gave the parties was insufficient. More importantly, the Court doesn’t perceive any reason why the LULAC Plaintiffs couldn’t have requested the extension *before* the deadline expired.


While it would have been better for the LULAC Plaintiffs to seek permission rather than forgiveness, the LULAC Plaintiffs’ strong showing on the other excusable neglect factors persuade us that a retroactive extension is appropriate here. The Court will therefore grant the Motion.

⁹ *U.S. Bank Tr. Nat’l Ass’n v. Walden*, 124 F.4th 314, 321 (5th Cir. 2024) (quoting *United States v. Clark*, 51 F.3d 42, 44 (5th Cir. 1995)) (citation modified).

The Court therefore **GRANTS** the “LULAC Plaintiffs’ Motion for Enlargement of Time to File LULAC Plaintiffs’ Brief Regarding Evidence from the Texas Legislative Council” (ECF No. 1104).

The “LULAC Plaintiffs’ Brief Regarding Admissibility of Evidence from the Texas Legislative Council” (ECF No. 1103) shall therefore be **DEEMED TIMELY**.

So ORDERED and SIGNED this 18th day of June 2025.



DAVID C. GUADERRAMA
SENIOR U.S. DISTRICT JUDGE

And on behalf of:

Jerry E. Smith
United States Circuit Judge
U.S. Court of Appeals, Fifth Circuit

-and-

Jeffrey V. Brown
United States District Judge
Southern District of Texas